

IN THE UNITED STATES DISTRICT COURT FOR THE  
WESTERN DISTRICT OF OKLAHOMA

LAVERN BERRYHILL,

Plaintiff,

v.

MELISSA HALVORSON, *et al.*,

Defendants.

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Case No. CIV-08-197-D

**ORDER**

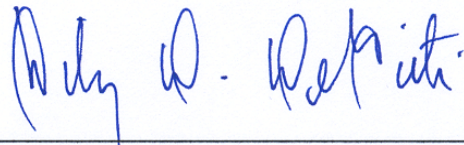
Before the Court is the Report and Recommendation of United States Magistrate Judge Bana Roberts issued March 31, 2008, pursuant to 28 U.S.C. § 636(b)(1). Judge Roberts recommends that Plaintiff's motion to proceed *in forma pauperis* be denied and that this *pro se* action be dismissed without prejudice unless Plaintiff pays the full \$350 filing fee within twenty days of the order adopting the Report. This recommendation is based on findings that Plaintiff is subject to filing restrictions under 28 U.S.C. § 1915(g) and has alleged insufficient facts to show he is in imminent danger of serious physical injury.

Within the time period for filing an objection, Plaintiff has submitted a collection of papers [Doc. No. 11], that consist of: a one-page "Motion for Reconsideration of Magistrate's Report and Recommendation," which alleges Plaintiff is being held hostage at the Lawton Correctional Facility and has filed a judicial complaint about the reassignment of this case to the undersigned and bar complaints against the Oklahoma Attorney General, the United States Attorney and two of his assistants due to a "massive criminal conspiracy" against Plaintiff; a two-page "Confidential Request for Writ of Habeas Corpus," which is directed to Judge Miles-LaGrange and requests that she hear a "GTCA" lawsuit and declare his criminal sentences void; and a multi-page document entitled

“GTCA Lawsuit Pursuant to 51 Okla. St. Ann. § 152.1(a),” which appears to be a copy of an unfiled complaint against private prison officials and various state officials but contains statements of expected testimony that will allegedly show Plaintiff has been wrongfully convicted and is in a “kidnap/hostage situation.” None of these papers is responsive to the issues raised by Judge Roberts. Nevertheless, upon *de novo* review of the case record, the Court concurs in Judge Roberts’ finding that Plaintiff is not entitled to proceed *in forma pauperis* by operation of § 1915(g). His motion requesting to see an FBI agent [Doc. No. 7] fails to allege sufficient facts to show that Plaintiff is under imminent danger of serious physical injury.

IT IS THEREFORE ORDERED that the Report and Recommendation [Doc. No. 9] is adopted in its entirety. Plaintiff’s motions to proceed *in forma pauperis* [Doc. Nos. 2, 8] are denied. Plaintiff shall pay the filing fee for this action in the amount of \$350.00 within twenty (20) days from the date of this Order. Failure to make full payment by that date will result in the dismissal of this action without prejudice to refiling.

IT IS SO ORDERED this 24<sup>th</sup> day of April, 2008.



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TIMOTHY D. DEGIUSTI  
UNITED STATES DISTRICT JUDGE